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Attorneys for Plaintiffs
Alfred Lee Alfred, II, et al.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ARTHUR LEE ALFRED, II, et al.,
Plaintiffs,
v.
WALT DISNEY PICTURES,,
Defendant.

Case No. 2:18-CV-08074-CBM-ASx

**DECLARATION OF BRANDON
J. PAKKEBIE**

Judge: Hon. Consuelo B. Marshall
Location: Courtroom 8B

DECLARATION OF BRANDON J. PAKKEBIER

I, Brandon J. Pakkebie, declare:

1. I am one of the attorneys representing Plaintiffs Arthur Lee Alfred II and Ezequiel Martinez, Jr. in this action. I have been admitted to practice before this Court *pro hac vice* for this matter. I am also admitted to practice before all courts in the State of Delaware and the State of Minnesota, as well as before the United States District Court for the District of Delaware and for the District of Minnesota. The facts stated herein are personally known to me and I could and would testify competently thereto if called upon as a witness under oath.

2. Attached as **Exhibit 1** is a true and correct copy of Defendant Walt Disney Pictures' ("Disney") Initial Disclosures, served on January 29, 2021.

3. Attached as **Exhibit 2** is a true and correct copy of Disney's Supplemental Initial Disclosures, served on June 13, 2022.

4. Plaintiffs served their first set of discovery requests in this matter on January 5, 2022. They served both a First Set of Interrogatories and a First Set of Requests for Production. Attached as **Exhibit 3** is a true and correct copy of an excerpt of Disney's responses to Interrogatory Nos. 4-5 in Plaintiffs' First Set of Interrogatories, served on February 4, 2022.

5. Plaintiffs first requested availability for the depositions of Jerry Bruckheimer, Nina Jacobson, Brigham Taylor, Terry Rossio, Ted Elliott, Stuart Beattie, and Jay Wolpert on January 3, 2022.

6. Plaintiffs deposed Jerry Bruckheimer on March 22, 2022.

7. Plaintiffs deposed Nina Jacobson on March 29, 2022.

8. Plaintiffs deposed Brigham Taylor on March 24, 2022.

9. Plaintiffs deposed Ted Elliott on April 27, 2022.

10. Plaintiffs did not take the depositions of Terry Rossio, Stuart Beattie, or Jay Wolpert.

11. Plaintiffs took the corporate, Rule 30(b)(6) deposition of Disney on June 23, 2022 for non-financial topics.

12. Disney did not request availability for the depositions of Tova Laiter, Ezequiel Martinez, Jr., or Arthur Lee Alfred, II until May 18, 2022.

13. Disney noticed the deposition of Ezequiel Martinez, Jr. for June 15, 2022.

14. Disney noticed the deposition of Arthur Lee Alfred, II for June 17, 2022.

15. Disney noticed the deposition of Tova Laiter for June 27, 2022.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 24th of June, 2022 in Minneapolis, Minnesota.

/s/ Brandon J. Pakkebie

Brandon J. Pakkebie

EXHIBIT 1

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7 Attorneys for Defendant

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 ARTHUR LEE ALFRED, II, an
12 individual; AND EZEQUIEL
13 MARTINEZ, JR., an individual,

14 Plaintiffs,

15 v.

16 WALT DISNEY PICTURES, a
California company,

17 Defendant,
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Case No. 2:18-CV-08074-CBM-AS

**DEFENDANT WALT DISNEY
PICTURES' RULE 26(a)(1) INITIAL
DISCLOSURES**

Judge: Hon. Consuelo Marshall

Compl. Filed: Nov. 14, 2017

FAC Filed: Nov. 30, 2020

Trial Date: TBD

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and the Court's order dated January 19, 2021 (Dkt. 122), Defendant Walt Disney Pictures ("WDP") makes the following initial disclosures to Plaintiffs Arthur Lee Alfred, II and Ezequiel Martinez, Jr. ("Plaintiffs").

GENERAL STATEMENT

1. WDP's investigation and discovery in this action is continuing, and these disclosures reflect only the current status of its investigation and discovery of the allegations and claim in Plaintiffs' First Amended Complaint. WDP reserves the right to supplement or amend these disclosures as additional information becomes known to it, or if Plaintiffs amend their allegations and claims, although WDP undertakes no affirmative obligation to do so beyond any obligations imposed by law.

2. WDP construes the requirements of Rule 26(a)(1) not to require the production or disclosure of any information or documents protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection from disclosure. WDP intends to and does assert a privilege over or right not to produce all such information and documents. Inadvertent disclosure shall not constitute a waiver of any such privilege or other legal protection.

3. These initial disclosures are made without waiving WDP's rights (1) to object to the admission or discoverability of any materials or testimony on any proper ground, (2) to object to the use of any information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other; or (3) to object on any and all proper grounds, at any time, to any discovery request or proceeding involving or relating to the subject matter of these disclosures.

4. This General Statement is incorporated in its entirety into each of the following disclosures. It shall be deemed continuing as to each such disclosure, and it is not waived, or in any way limited, by the following disclosures.

INITIAL DISCLOSURES

I. Individuals; Rule 26(a)(1)(A)(i)

WDP provides the following list of individuals who are likely to have discoverable information that WDP may use to support its defense, other than solely for impeachment.

Name	Subject(s) of Information	Location
Arthur Lee Alfred, II	The claims asserted by Plaintiffs; the development of the Screenplay ¹ ; WDP's access to the Screenplay.	Plaintiff.
Ezequiel Martinez, Jr.	The claims asserted by Plaintiffs; the development of the Screenplay; WDP's access to the Screenplay.	Plaintiff.
Tova Laiter	The claims asserted by Plaintiffs; the development of the Screenplay; WDP's access to the Screenplay.	Unknown.
Brigham Taylor	WDP's access to the Screenplay; independent conception and creation of the motion pictures in the <i>Pirates of the Caribbean</i> franchise.	May be contacted through WDP's counsel.
Ted Elliott	WDP's access to the Screenplay; independent conception and creation of the motion pictures in the <i>Pirates of the Caribbean</i> franchise.	May be contacted through WDP's counsel.

¹ In these initial disclosures, the term "the Screenplay" refers to the screenplay allegedly drafted by Plaintiffs and attached as Exhibit 2 to the First Amended Complaint. See Dkt. 112-2.

1	Terry Rossio	WDP's access to the Screenplay; independent conception and creation of the motion pictures in the <i>Pirates of the Caribbean</i> franchise.	May be contacted through WDP's counsel.
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3			
4			
5	Stuart Beattie	WDP's access to the Screenplay; independent conception and creation of the motion pictures in the <i>Pirates of the Caribbean</i> franchise.	May be contacted through WDP's counsel.
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10	Jay Wolpert	WDP's access to the Screenplay; independent conception and creation of the motion pictures in the <i>Pirates of the Caribbean</i> franchise.	May be contacted through WDP's counsel.
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15	Fact witness regarding "Pirates of the Caribbean" theme park attraction	Original elements of theme park attraction.	May be contacted through WDP's counsel.
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17			

II. Category and Location of Documents; Rule 26(a)(1)(A)(ii)

WDP provides the following list of the categories of documents, electronically stored information, and tangible things that WDP may use to support its defense, other than solely for impeachment. WDP provides this list without conceding the discoverability of any particular category of information or documents.

Documents	Location
Documents relating to the independent creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl</i> .	WDP or affiliates.

1 Documents, if any, relating to	WDP or affiliates; Plaintiffs; third party
2 Plaintiffs' alleged submission of the	Tova Laiter.
3 Screenplay to WDP and/or its affiliates	
4 or employees.	
5 Documents supporting WDP's position	WDP or affiliates; third parties.
6 that the Screenplay and <i>Pirates of the</i>	
7 <i>Caribbean: Curse of the Black Pearl</i>	
8 are not substantially similar.	
9 Documents supporting WDP's position	WDP or affiliates; Plaintiffs; third
10 that the elements of the Screenplay that	parties.
11 Plaintiffs claim are infringed are not	
12 elements as to which Plaintiffs may	
13 assert copyright ownership.	
14 Prior drafts or alternative versions of	Plaintiffs and third party Tova Laiter.
15 the Screenplay.	
16 Documents demonstrating Plaintiffs'	Plaintiffs and third party Tova Laiter.
17 access to and reliance on Disneyland's	
18 "Pirates of the Caribbean" theme park	
19 attraction in drafting the Screenplay.	

III. Damages; Rule 26(a)(1)(A)(iii)

WDP does not currently seek damages in this action. WDP reserves all rights with respect to the recovery of its attorney's fees and costs.

IV. Insurance; Rule 26(a)(1)(A)(iv)

WDP has an insurance policy that may apply to the defense of this action and any judgment. The primary insurer on coverage is Illinois Union Insurance Company.

DATED: January 29, 2021

MUNGER, TOLLES & OLSON LLP

By: /s/ Jordan D. Segall

JORDAN D. SEGALL

Attorneys for Defendant Walt Disney Pictures

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 350 South Grand Avenue, 50th Floor, Los Angeles, CA 90071-3426.

On January 29, 2021, I served true copies of the following document(s) described as **DEFENDANT WALT DISNEY PICTURES' RULE 26(A)(1) INITIAL DISCLOSURES** on the interested parties in this action as follows:

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Attorneys for Plaintiffs

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address Jordan.Segall@mto.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on January 29, 2021, at Los Angeles, California.

/s/ Jordan D. Segall

Jordan D. Segall

EXHIBIT 2

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9 Attorneys for Defendant

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 ARTHUR LEE ALFRED, II, an
14 individual; AND EZEQUIEL
MARTINEZ, JR., an individual,

15 Plaintiffs,

16 v.

17 WALT DISNEY PICTURES, a
18 California company,

19 Defendant,
20

Case No. 2:18-CV-08074-CBM-ASx

**DEFENDANT WALT DISNEY
PICTURES' SUPPLEMENTAL
RULE 26(a)(1) DISCLOSURES**

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, Defendant Walt Disney Pictures (“WDP”) makes the following supplemental disclosures to Plaintiffs Arthur Lee Alfred, II and Ezequiel Martinez, Jr. (“Plaintiffs”).

GENERAL STATEMENT

1. WDP’s investigation and discovery in this action is continuing, and these disclosures reflect only the current status of its investigation and discovery of the allegations and claim in Plaintiffs’ First Amended Complaint. WDP reserves the right to supplement or amend these disclosures as additional information becomes known to it, or if Plaintiffs amend their allegations and claims, although WDP undertakes no affirmative obligation to do so beyond any obligations imposed by law.

2. WDP construes the requirements of Rule 26(a)(1) not to require the production or disclosure of any information or documents protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or protection from disclosure. WDP intends to and does assert a privilege over or right not to produce all such information and documents. Inadvertent disclosure shall not constitute a waiver of any such privilege or other legal protection.

3. These initial disclosures are made without waiving WDP’s rights (1) to object to the admission or discoverability of any materials or testimony on any proper ground, (2) to object to the use of any information, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other; or (3) to object on any and all proper grounds, at any time, to any discovery request or proceeding involving or relating to the subject matter of these disclosures.

4. This General Statement is incorporated in its entirety into each of the following disclosures. It shall be deemed continuing as to each such disclosure, and it is not waived, or in any way limited, by the following disclosures.

SUPPLEMENTAL DISCLOSURES

I. Individuals; Rule 26(a)(1)(A)(i)

WDP provides the following list of individuals who are likely to have discoverable information that WDP may use to support its defense, other than solely for impeachment.

Name	Subject(s) of Information	Location
Arthur Lee Alfred, II	The claims asserted by Plaintiffs; the development of the Screenplay ¹ ; WDP's access to the Screenplay.	Plaintiff.
Ezequiel Martinez, Jr.	The claims asserted by Plaintiffs; the development of the Screenplay; WDP's access to the Screenplay.	Plaintiff.
Tova Laiter	The claims asserted by Plaintiffs; the development of the Screenplay; WDP's access to the Screenplay.	Unknown.
Brigham Taylor	WDP's access to the Screenplay; independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl</i> and sequel films.	May be contacted through WDP's counsel.
Nina Jacobson	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl</i> .	May be contacted through WDP's counsel.
Ted Elliott	Independent conception and creation of <i>Pirates of the</i>	May be contacted through WDP's counsel.

¹ In these supplemental disclosures, the term "the Screenplay" refers to the screenplay allegedly drafted by Plaintiffs and attached as Exhibit 2 to the First Amended Complaint. See Dkt. 112-2.

	<i>Caribbean: The Curse of the Black Pearl.</i>	
Terry Rossio	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl.</i>	May be contacted through WDP's counsel.
Stuart Beattie	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl.</i>	May be contacted through WDP's counsel.
Josh Harmon	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl.</i>	Phone: 801-319-0694
Michael Haynes	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl.</i>	Unknown
Jerry Bruckheimer	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl.</i>	May be contacted through WDP's counsel.
Chad Oman	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl.</i>	May be contacted through WDP's counsel.
Mike Stenson	Independent conception and creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl.</i>	May be contacted through WDP's counsel.

II. Category and Location of Documents; Rule 26(a)(1)(A)(ii)

WDP provides the following list of the categories of documents, electronically stored information, and tangible things that WDP may use to support its defense, other than solely for impeachment. WDP provides this list without

conceding the discoverability of any particular category of information or documents.

Documents	Location
Documents relating to the independent creation of <i>Pirates of the Caribbean: The Curse of the Black Pearl</i> .	WDP or affiliates.
Documents, if any, relating to Plaintiffs' alleged submission of the Screenplay to WDP and/or its affiliates or employees.	WDP or affiliates; Plaintiffs; third party Tova Laiter.
Documents supporting WDP's position that the Screenplay and <i>Pirates of the Caribbean: Curse of the Black Pearl</i> are not substantially similar.	WDP or affiliates; third parties.
Documents supporting WDP's position that the elements of the Screenplay that Plaintiffs claim are infringed are not elements as to which Plaintiffs may assert copyright ownership.	WDP or affiliates; Plaintiffs; third parties.
Prior drafts or alternative versions of the Screenplay.	Plaintiffs and third party Tova Laiter.
Documents demonstrating Plaintiffs' access to and reliance on Disneyland's "Pirates of the Caribbean" theme park attraction in drafting the Screenplay.	Plaintiffs and third party Tova Laiter.

III. Damages; Rule 26(a)(1)(A)(iii)

WDP does not currently seek damages in this action. WDP reserves all rights with respect to the recovery of its attorney's fees and costs.

IV. Insurance; Rule 26(a)(1)(A)(iv)

WDP has an insurance policy that may apply to the defense of this action and any judgment. The primary insurer on coverage is Illinois Union Insurance Company.

1 DATED: June 13, 2022

MUNGER, TOLLES & OLSON LLP

2 By: /s/ Juliana M. Yee

3 JULIANA M. YEE

4 Attorneys for Defendant Walt Disney Pictures

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PROOF OF SERVICE

*Arthur Lee Alfred, II, et al v. Walt Disney
Pictures Case No. 2:18-CV-08074-CBM-ASx*

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 560 Mission Street, 27th Floor, San Francisco, CA 94105.

On June 13, 2022, I served true copies of the following document(s) described as

**DEFENDANT WALT DISNEY PICTURES' SUPPLEMENTAL RULE 26(a)(1)
DISCLOSURES**

on the interested parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address Stephanie.Ferrell@mto.com to the persons at the e-mail addresses listed in the Service List after such parties agreed to electronic service pursuant to Fed. R. Civ. P. 5(b)(2)(E). I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 13, 2022, at San Francisco, California.



Stephanie Ferrell

EXHIBIT 3

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*Attorneys for Defendant Walt Disney
Pictures*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ARTHUR LEE ALFRED, II et al.,

Plaintiffs,

v.

WALT DISNEY PICTURES,

Defendant,

Case No. 2:18-CV-08074-CBM-ASx

**DEFENDANT'S RESPONSES AND
OBJECTIONS TO PLAINTIFFS'
FIRST SET OF
INTERROGATORIES**

Judge: Hon. Consuelo Marshall

Complaint Filed: Nov. 14, 2017
(D.C. Colo. No. 1:17-CV-02729)

Pretrial Conference: Jan. 9, 2023
Trial Date: Feb. 7, 2023

PROPOUNDING PARTY: PLAINTIFFS

RESPONDING PARTY: WALT DISNEY PICTURES

SET NO.: ONE

1 WDP's investigation is ongoing, and WDP reserves the right to supplement
2 this response.

3 **INTERROGATORY NO. 4:**

4 Describe in detail each independent conception, consideration, or analysis at
5 Disney of any idea for a potential film relating to the Pirates of the Caribbean ride
6 before the release of the Pirates of the Caribbean film, including the individuals
7 involved, the date(s), and a summary of the idea.

8 **RESPONSE TO INTERROGATORY NO. 4:**

9 WDP incorporates its Prefatory Statement, General Objections, and
10 Objections to Plaintiffs' Definitions and Instructions. WDP further objects to this
11 Interrogatory insofar as describing WDP's "independent conception, consideration,
12 or analysis" is vague, ambiguous, and calls for a legal conclusion. WDP further
13 objects to the extent this Interrogatory is overly broad, unduly burdensome, and not
14 proportional to the needs of this case insofar as it seeks "any" idea for a potential
15 film "relating to" the Ride, and will respond with descriptions of ideas for potential
16 films relating to the Ride that it identified after a reasonably diligent inquiry. WDP
17 further objects to the phrase "summary of the idea," as it is subject to multiple
18 interpretations.

19 Subject to and without waiving the foregoing objections, WDP responds as
20 follows: In the mid-1990s, WDP considered a direct-to-video children's project
21 titled *Pirates of the Caribbean* based on the Ride. In the same time period, WDP
22 considered an animated children's television series based on the Ride.

23 In 1992, Terry Rossio and Ted Elliott developed and pitched to WDP an idea
24 for a *Pirates of the Caribbean* movie that included elements drawn from the Ride.

25 In 2000, Brigham Taylor, vice president of production; Michael Haines, a
26 creative executive; and Josh Harmon, a veteran story department employee, held
27 regular story sessions during which they would meet to discuss feature length
28 movies they would like to see developed. During these sessions, Taylor, Haines,

1 and Harmon discussed the idea of a pirate feature length movie titled *Pirates of the*
2 *Caribbean*, based on the Ride. The three individuals worked to develop the first
3 draft of the treatment of the film that became *The Curse*.

4 WDP also directs Plaintiffs to its forthcoming document production, which
5 will include non-privileged documents, if any, that are located after a reasonably
6 diligent search and responsive to Plaintiffs' Request for Production of Documents in
7 the same categories as set forth in this Interrogatory.

8 WDP's investigation is ongoing, and WDP reserves the right to supplement
9 this response.

10 **INTERROGATORY NO. 5:**

11 Identify who at, and on what date, Disney conceived of the concept for the
12 *Pirates of the Caribbean* film and identify by bates numbers documents which
13 corroborate that conception.

14 **RESPONSE TO INTERROGATORY NO. 5:**

15 WDP incorporates its Prefatory Statement, General Objections, and
16 Objections to Plaintiffs' Definitions and Instructions. WDP further objects to this
17 Interrogatory as vague and ambiguous insofar as it seeks the identity of individuals
18 who "conceived of the concept" of the Film. The Film is based on innumerable
19 "concepts," some of which include stock elements of the pirate genre going back
20 decades or longer, and some of which related to the creation of the Ride in the
21 1960s. WDP further objects to this Interrogatory on the ground that the request to
22 identify corroborating documents by bates number is unduly burdensome and seeks
23 to impose obligations on WDP that are in excess of those imposed by the Federal
24 Rules of Civil Procedure, the Local Rules, and Orders of this Court.

25 Subject to and without waiving the foregoing objections, WDP responds as
26 follows: In approximately early-to-mid 2000, Brigham Taylor, Michael Haines, and
27 Josh Harmon worked to develop a written treatment for a feature *Pirates of the*
28 *Caribbean* motion picture. On July 8, 2000, Taylor, Haines, and Harmon sent that

1 treatment to Nina Jacobson. That treatment led to the development of scripts
2 identified in WDP's response to Interrogatory No. 3, which relate to *The Curse*.

3 WDP directs Plaintiffs to its forthcoming document production, which will
4 include non-privileged documents, if any, that are located after a reasonably diligent
5 search and responsive to Plaintiffs' Request for Production of Documents in the
6 same categories as set forth in this Interrogatory.

7 WDP's investigation is ongoing, and WDP reserves the right to supplement
8 this response.

9 **INTERROGATORY NO. 6:**

10 Identify each person with whom you or your representatives shared the first
11 draft treatment, outline, or script of the Pirates of the Caribbean film.

12 **RESPONSE TO INTERROGATORY NO. 6:**

13 WDP incorporates its Prefatory Statement, General Objections, and
14 Objections to Plaintiffs' Definitions and Instructions. WDP further objects that the
15 phrase "first draft treatment, outline, or script" is vague and ambiguous, in part
16 because the terms "treatment," "outline," or "script" mean different things to
17 different people, even within the motion picture industry. WDP construes the term
18 "treatment" to refer to a description of a story idea that is not in screenplay or other
19 form. WDP further objects that this Interrogatory is compound, as the first person
20 with whom WDP shared the "first draft treatment" may be different from the first
21 person with whom WDP shared the first "script," and will depend on how those
22 terms are defined. WDP construes this Interrogatory to seek identification of the
23 persons with whom WDP shared the first treatment, outline, or script—whichever
24 existed first—of the Film.

25 Subject to and without waiving the foregoing objections, WDP responds as
26 follows: Brigham Taylor, Michael Haines, and Josh Harmon prepared the first draft
27 treatment of a feature length motion picture that would become *The Curse*. They
28 shared the draft treatment with Nina Jacobson, then President of Buena Vista